

AMENDED IN ASSEMBLY JUNE 4, 2002

AMENDED IN SENATE APRIL 23, 2002

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1670

Introduced by Senator Scott

(Principal coauthor: Assembly Member Aroner)

**(Coauthors: Senators Alpert, Kuehl, Perata, Polanco, Romero,
and Torlakson)**

(Coauthors: Assembly Members Chu, Firebaugh, Keeley, Koretz,
and Longville)

February 21, 2002

An act to amend Section 12088 of, to amend and repeal Section 12088.1 of, and to add Sections 12087.6 and 12088.15 to, the Penal Code, relating to firearm safety devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 1670, as amended, Scott. Firearm safety devices.

Existing law requires all firearms sold or transferred by a firearms dealer, to be accompanied by a firearms safety device that is listed on the Department of Justice's roster of approved firearms safety devices, as specified. *However, existing law exempts firearm sales and transfers from this requirement, if the seller or transferee proves ownership of a gun safe that meets specified standards, as provided.*

This bill would define "firearms safety device" and "gun safe" for purposes of those provisions.

Existing law also requires the department to develop a minimum safety standard for gun safes.

This bill would require gun safes which do not meet those minimum safety standards to carry a specified warning label.

Existing law requires the Department of Justice to compile, publish, and maintain a roster listing all of the safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for firearms safety devices and may be sold in this state.

This bill would, in addition, authorize the department to randomly retest *unused samples of firearm safety devices listed on the roster* obtained from sources other than directly from the manufacturer ~~of the firearm safety devices listed on the roster~~ to ensure compliance with the requirements established by the department.

This bill would additionally require the firearms safety device included with or accompanying the firearm be identified on the roster as being appropriate for that firearm by reference either to the manufacturer and model of firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device. The bill would also make a technical change by deleting a duplicate provision.

This bill would also provide that it would be unlawful to keep for commercial sale, offer or expose for commercial sale, commercially sell, or for any person to distribute as part of an organized firearm safety program, with or without consideration, any firearms safety device that is not listed on the roster maintained by the department, or that does not comply with the standards for firearms safety devices adopted by the department. Violation of these provisions would be punishable by a civil fine of up to \$500, and additionally, for a 2nd violation *within 5 years of previous offense* by a civil fine of up to \$1,000, and if the violation is committed by a licensed firearms dealer, by a temporary ineligibility to sell firearms, as specified. ~~Subsequent violations~~ *A violation within 5 years of 2 or more previous offenses* would be punishable by a civil fine of up to \$5,000, and in the case of a licensed firearms dealer, by permanent ineligibility to sell firearms, as specified.

This bill would also provide that the Attorney General, a district attorney, or a city attorney may bring a civil action for a violation of the provisions of the bill, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 12087.6 is added to the Penal Code, to read:

12087.6. As used in this article, ~~“firearms~~:

(a) “*Firearms safety device*” means a device *other than a gun safe* that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm.

(b) “*Gun safe*” means a locking container designed to hold a rifle as defined in paragraph (20) of subdivision (c) of Section 12020 or a shotgun as defined in paragraph (21) of subdivision (c) of Section 12020.

SEC. 2. Section 12088 of the Penal Code is amended to read:

12088. Effective January 1, 2001:

(a) The Department of Justice shall certify laboratories to verify compliance with standards for firearms safety devices set forth in Section 12088.2.

(b) The Department of Justice may charge any laboratory that is seeking certification to test firearms safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of regulations and standards pursuant to Section 12088.2.

(c) The certified laboratory shall, at the manufacturer’s or dealer’s expense, test the firearms safety device and submit a copy of the final test report directly to the Department of Justice along with the firearms safety device. The department shall notify the manufacturer or dealer of its receipt of the final test report and the department’s determination as to whether the firearms safety device tested may be sold in this state.

(d) On and after July 1, 2001, the Department of Justice shall compile, publish, and thereafter maintain a roster listing all of the firearms safety devices that have been tested by a certified testing laboratory, have been determined to meet the department’s standards for firearms safety devices and may be sold in this state.

(e) The roster shall list, for each firearms safety device, the manufacturer, model number, and model name.

(f) The department may randomly retest samples obtained from sources other than directly from the manufacturer of the

1 firearms safety device listed on the roster to ensure compliance
2 with the requirements of this article.

3 (g) *Safety devices used for testing that are obtained from*
4 *sources other than the manufacturer must be new, unused, and still*
5 *in the manufacturer's original and unopened package.*

6 SEC. 3. Section 12088.1 of the Penal Code, as added by
7 Section 1 of Chapter 246 of the Statutes of 1999, is amended to
8 read:

9 12088.1. Effective January 1, 2002:

10 (a) All firearms sold or transferred in this state by a licensed
11 firearms dealer, including private transfers through a dealer, and
12 all firearms manufactured in this state, shall include or be
13 accompanied by a firearms safety device that is listed on the
14 Department of Justice's roster of approved firearms safety devices
15 and that is identified as appropriate for that firearm by reference
16 to either the manufacturer and model of the firearm, or to the
17 physical characteristics of the firearm that match those listed on
18 the roster for use with the device.

19 (b) All firearms sold or transferred in this state by a licensed
20 firearms dealer, including private transfers through a dealer, and
21 all firearms manufactured in this state shall be accompanied with
22 warning language or labels as described in Section 12088.3.

23 (c) The sale or transfer of a firearm shall be exempt from
24 subdivision (a) if both of the following apply:

25 (1) The purchaser or transferee owns a gun safe that meets the
26 standards set forth in Section 12088.2. Gun safes shall not be
27 required to be tested, and therefore may meet the standards without
28 appearing on the Department of Justice roster.

29 (2) The purchaser or transferee presents an original receipt for
30 purchase of the gun safe, or other proof of purchase or ownership
31 of the gun safe as authorized by the Attorney General, to the
32 firearms dealer. The dealer shall maintain a copy of this receipt or
33 proof of purchase with the dealers' record of sales of firearms.

34 (d) The sale or transfer of a firearm shall be exempt from
35 subdivision (a) if all of the following apply:

36 (1) The purchaser or transferee purchases an approved safety
37 device no more than 30 days prior to the day the purchaser or
38 transferee takes possession of the firearm.

39 (2) The purchaser or transferee presents the approved safety
40 device to the firearms dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms dealer which shows the date of purchase, the name, and the model number of the safety device.

(4) The firearms dealer verifies that the requirements in (1) to (3), inclusive, have been satisfied.

(5) The firearms dealer maintains a copy of the receipt along with the dealers' record of sales of firearms.

SEC. 4. Section 12088.1 of the Penal Code, as added by Section 1 of Chapter 245 of the Statutes of 1999, is repealed.

SEC. 5. Section 12088.15 is added to the Penal Code, to read:

12088.15. (a) No person shall keep for commercial sale, offer, or expose for commercial sale, or commercially sell any firearms safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088, or that does not comply with the standards for firearms safety devices adopted pursuant to Section 12088.2.

(b) No person may distribute as part of an organized firearm safety program, with or without consideration, any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088 or does not comply with the standards for firearms safety devices adopted pursuant to Section 12088.2.

(c) *No person shall keep for commercial sale, offer, or expose for commercial sale, or commercially sell a gun safe that does not comply with the standards for gun safes adopted pursuant to Section 12088.2 unless the gun safe is labeled with the following warning: "WARNING: This gun safe does not meet the safety standards for gun safes specified in California Penal Code Section 12088.2. It does not satisfy the requirements of Penal Code Section 12088.1, which mandates that all firearms sold in California be accompanied by a firearms safety device or proof of ownership, as required by law, of a gun safe that meets the Section 12088.2 minimum safety standards developed by the California Attorney General."*

(1) This warning shall be displayed in its entirety on the principal display panel of the gun safe's package, and on any descriptive materials that accompany the gunsafe.

(2) This warning shall be displayed in both English and Spanish in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on that package or

1 *descriptive materials in a manner consistent with Part 1500.121*
2 *of Title 16, of the Code of Federal Regulations, or successor*
3 *regulations thereto.*

4 (d) A violation of this section is punishable by a civil fine of up
5 to five hundred dollars (\$500). A second violation of this section
6 *that occurs within five years of the date of a previous offense* is
7 punishable by a civil fine of up to one thousand dollars (\$1,000)
8 and, if the violation is committed by a licensed firearms dealer, the
9 dealer shall be ineligible to sell firearms in this state for 30 days.
10 A third or subsequent violation *that occurs within five years of two*
11 *or more previous offenses* is punishable by a civil fine of up to five
12 thousand dollars (\$5,000) and, if the violation is committed by a
13 licensed firearms dealer, the firearms dealer shall be permanently
14 ineligible to sell firearms in this state.

15 ~~(d)~~

16 (e) The Attorney General, a district attorney, or a city attorney
17 may bring a civil action for a violation of the provisions of this
18 section.

